

SENATE BILL NO. 412

INTRODUCED BY COCCHIARELLA, BERGREN, GALLUS, GROESBECK, KEANE, LARSON, VILLA,
CALLAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSURE AND REGULATION OF
ELEVATOR CONTRACTORS, ELEVATOR MECHANICS, AND ELEVATOR INSPECTORS ~~THROUGH THE~~
~~CREATION OF A STATE ELEVATOR BOARD; PROVIDING FOR THE APPOINTMENT OF BOARD MEMBERS~~
~~AND THE ORGANIZATION OF THE BOARD; PROVIDING THE BOARD AND THE DEPARTMENT OF LABOR~~
~~AND INDUSTRY WITH RULEMAKING AUTHORITY; AUTHORIZING THE DEPARTMENT OF LABOR AND~~
~~INDUSTRY TO PROVIDE FOR A LIMITED MECHANIC'S LICENSE AND A LIMITED ELEVATOR~~
~~CONTRACTOR'S LICENSE; PROVIDING FOR THE APPOINTMENT OF A LICENSED ELEVATOR MECHANIC~~
TO THE BUILDING CODES COUNCIL; REGULATING THE DESIGN, CONSTRUCTION, ALTERATION,
OPERATION, MAINTENANCE, REPAIR, INSPECTION, INSTALLATION, AND TESTING OF ELEVATORS,
DUMBWAITERS, ESCALATORS, AND OTHER EQUIPMENT; AMENDING SECTION 50-60-115, MCA;
REPEALING SECTIONS 50-60-701, 50-60-702, AND 50-60-703, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. State elevator board. (1) There is a state elevator board.~~

~~(2) The board consists of nine members appointed by the governor with the consent of the senate. The
members are:~~

~~(a) two members of the public;~~

~~(b) four licensed elevator mechanics;~~

~~(c) two licensed elevator contractors; and~~

~~(d) one licensed elevator inspector.~~

~~(3) The board members shall serve for terms of 4 years.~~

~~(4) The board shall annually select a presiding officer from its members.~~

~~(5) The board shall meet quarterly and at other times it considers necessary.~~

~~(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.~~

~~(7) A member of the board is entitled to compensation and travel expenses as provided 37-1-133.~~

1
2 **NEW SECTION. Section 1. Definitions.** Unless the context requires otherwise, in [sections ~~2 1~~ through
3 ~~45 14~~], the following definitions apply:

4 ~~(1) "Board" means the state elevator board provided for in [section 1].~~

5 ~~(2)(1)~~ "Department" means the department of labor and industry provided for in Title 2, chapter 15, part
6 17.

7 ~~(3)(2)~~ "Elevator contractor" means any person intending to engage in the business of installing, altering,
8 or repairing elevators, escalators, dumbwaiters, or other equipment subject to the provisions of [sections ~~46 15~~
9 through ~~23 22~~].

10 ~~(4)(3)~~ "Elevator inspector" means any person intending to engage in inspecting elevators, escalators,
11 dumbwaiters, or other equipment subject to the provisions of [sections ~~46 15~~ through ~~23 22~~].

12 ~~(5)(4)~~ "Elevator mechanic" means any person intending to engage in installing, altering, repairing, or
13 testing elevators, escalators, dumbwaiters, or other equipment subject to the provisions of [sections ~~46 15~~
14 through ~~23 22~~].

15
16 **NEW SECTION. Section 2. Rulemaking -- records.** The ~~board~~ DEPARTMENT may adopt rules for the
17 administration of [sections ~~2 1~~ through ~~45 14~~] and for the licensing and disciplining of elevator mechanics,
18 elevator contractors, and elevator inspectors. ~~The department shall keep a record of the board's official actions.~~
19 THE DEPARTMENT SHALL ADOPT RULES TO PROVIDE FOR A LIMITED MECHANIC'S LICENSE AND A LIMITED ELEVATOR
20 CONTRACTOR'S LICENSE.

21
22 **NEW SECTION. Section 3. License required.** (1) A person may not engage in the work of an elevator
23 mechanic or elevator inspector or engage in the business of an elevator contractor unless the person has
24 received a license from the department.

25 (2) A person who receives a license under the provisions of [~~2 SECTIONS 1~~ through ~~45 14~~] shall carry
26 the license or proof of licensure at all times while working on a job site and performing work that requires a
27 license. Acceptable proof of licensure must be determined by the ~~board~~ DEPARTMENT and be made known ~~by~~
28 ~~the department~~ to each licensee when a license is issued.

29 (3) The ~~board~~ DEPARTMENT shall establish license fees and license renewal fees that are commensurate
30 with the costs of administering the licensing provisions of [sections ~~2 1~~ through ~~45 14~~].

1
2 NEW SECTION. Section 4. Apprenticeship allowed. [Sections ~~2 1~~ through ~~45 14~~] do not prohibit a
3 person from working as an apprentice with an elevator mechanic licensed under [sections ~~2 1~~ through ~~45 14~~]
4 and under rules ~~made~~ ADOPTED by the ~~board~~ DEPARTMENT. The name and residence of each apprentice and the
5 name and residence of the apprentice's employer must be filed with the department, and a record must be kept
6 by the department showing the name and residence of each apprentice.

7
8 NEW SECTION. Section 5. Elevator mechanic's license -- LIMITED MECHANIC'S LICENSE. (1) A person
9 intending to work as an elevator mechanic shall file a license application with the ~~board~~ DEPARTMENT on forms
10 ~~prescribed by the board and~~ furnished by the department.

11 (2) ~~An~~ EXCEPT AS PROVIDED IN SUBSECTION (3), AN applicant shall furnish proof, under oath, that the
12 person:

13 (a) has successfully completed a state-approved apprenticeship or other education program that meets
14 requirements established by the ~~board~~ DEPARTMENT by rule; or

15 (b) has at least 3 years of experience, verified by current and previous employers, working with
16 equipment subject to the provisions of [sections ~~46 15~~ through ~~23 22~~] and has passed the examination provided
17 for in [section ~~7 6~~].

18 (3) THE DEPARTMENT SHALL ADOPT RULES FOR THE LICENSURE, WITHOUT EXAMINATION, OF AN APPLICANT WHO
19 CAN DEMONSTRATE THAT THE APPLICANT HAS WORKED CONTINUOUSLY AS AN ELEVATOR MECHANIC FOR THE 3 YEARS
20 PRIOR TO [THE EFFECTIVE DATE OF THIS SECTION] AND HAS THE REQUISITE EXPERIENCE FOR LICENSURE. AN APPLICANT
21 UNDER THIS SECTION SHALL PAY THE REQUIRED APPLICATION FEE AND SHALL SUBMIT ANY REQUIRED PROOF UNDER OATH.

22 ~~(3)(4)~~ (4) The ~~board shall direct the~~ department ~~to~~ SHALL issue an elevator mechanic's license to an
23 applicant that ~~the board determines~~ meets the requirements of this section.

24 (5) (A) THE DEPARTMENT MAY ISSUE A LIMITED MECHANIC'S LICENSE TO AN APPLICANT THAT AUTHORIZES A
25 LICENSEE TO WORK ONLY ON PLATFORM LIFTS, STAIRWAY CHAIRLIFTS, AND DUMBWAITERS THAT ARE INSTALLED IN
26 PRIVATE RESIDENCES.

27 (B) THE EXAMINATION FOR A LIMITED MECHANIC'S LICENSE MUST BE BASED ON THE APPLICABLE CODES FOR THE
28 EQUIPMENT THAT A LICENSEE IS AUTHORIZED TO INSTALL.

29 (C) THE DEPARTMENT SHALL ISSUE A LIMITED MECHANIC'S LICENSE TO AN APPLICANT THAT MEETS THE
30 REQUIREMENTS OF THIS SUBSECTION (5).

NEW SECTION. Section 6. Elevator mechanic's examination -- fee -- third parties -- reciprocity.

(1) ~~Except as provided in subsection (3), the~~ THE department shall, at least once a year, administer an examination to applicants meeting the requirements of [section ~~6(2)(b)~~ 5(2)(B)]. The ~~board~~ DEPARTMENT shall determine the subjects, scope, and acceptable level of performance for the examination.

(2) The department shall determine by rule the fees to be charged an applicant for each examination and reexamination that the department administers. The fees must be commensurate with costs.

~~(3) The board may establish by rule national examinations that are acceptable as an alternative to the examination administered by the department.~~

~~———— (4) The department may use a third party to perform examination and grading services.~~

~~(5)(3)~~ (3) An applicant for a license who has previously taken and failed the examination required by this section may retake it at any time within 2 years without again furnishing proof of compliance with [section ~~6(2)(b)~~ 5(2)(B)].

~~(6)(4)~~ (4) The department may issue a license to an individual holding a valid license from another state that the department determines has standards substantially equal to [sections ~~2 1~~ through ~~45 14~~] upon application and without examination.

NEW SECTION. Section 7. Elevator inspector's license. (1) A person intending to engage in work as an elevator inspector shall apply ~~to the board~~ for a license as an elevator inspector on forms ~~prescribed by the board and~~ provided by the department.

(2) ~~The board may not authorize the department to~~ MAY NOT grant an applicant an elevator inspector's license unless the applicant demonstrates that the applicant meets the current national standards for the qualifications of elevator inspectors. The ~~board~~ DEPARTMENT shall designate by rule the national standards that must be met by an applicant.

NEW SECTION. Section 8. Elevator contractor's license -- LIMITED ELEVATOR CONTRACTOR'S LICENSE.

(1) A person intending to engage in business as an elevator contractor shall apply ~~to the board~~ for a license as an elevator contractor on forms ~~prescribed by the board and~~ provided by the department.

(2) An applicant shall provide the ~~board~~ DEPARTMENT with the following:

(a) if the applicant is an individual or sole proprietor, the name, residential address, and business

1 address of the applicant;

2 (b) if the applicant is a domestic business entity, the name and business address of the business entity
3 and the name and residential address of the business entity's principal officer;

4 (c) if the applicant is a foreign business entity, the name and address of a state resident authorized to
5 accept service of process or other notices on the business entity's behalf;

6 (d) evidence of insurance coverage required in [section ~~22~~ 21]; and

7 (e) other information that the ~~board~~ DEPARTMENT may require.

8 (3) The ~~board shall direct the department to~~ SHALL issue an elevator contractor's license to an applicant
9 that ~~the board determines~~ meets the requirements of this section.

10 (4) THE DEPARTMENT MAY ISSUE A LIMITED ELEVATOR CONTRACTOR'S LICENSE TO AN APPLICANT THAT LIMITS
11 A LICENSEE TO THE BUSINESS OF INSTALLING, ALTERING, AND REPAIRING ELEVATORS, PLATFORM LIFTS, STAIRWAY
12 CHAIRLIFTS, AND DUMBWAITERS IN PRIVATE RESIDENCES. THE DEPARTMENT SHALL ISSUE A LIMITED ELEVATOR
13 CONTRACTOR'S LICENSE TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS SECTION.

14
15 NEW SECTION. Section 9. Temporary elevator mechanic's license. (1) (a) If, in the case of an
16 emergency or disaster as defined in 10-3-103, the department determines that the number of licensed elevator
17 mechanics is insufficient to cope with the emergency or disaster, the department shall contact the licensed
18 elevator contractors operating in the state and request that the elevator contractors certify to the department any
19 persons in their employ who have an acceptable combination of education and experience to perform elevator
20 work without direct supervision.

21 (b) As soon as practicable, the department shall issue to a person certified pursuant to subsection (1)(a)
22 a temporary elevator mechanic's license. The department ~~and the board~~ may not charge a fee for a license
23 issued under this section.

24 (c) The license may not be valid for more than 30 days. However, the department may renew the
25 license for 30-day periods in the case of a continuing emergency or disaster.

26 (d) The department may limit a person's temporary license to certain equipment or to certain
27 geographical areas.

28 (2) (a) An elevator contractor shall inform the department if there are not any licensed elevator
29 mechanics available to perform elevator work on behalf of the elevator contractor.

30 (b) The elevator contractor may submit a list to the department of any persons that the elevator

contractor certifies have an acceptable combination of documented education and experience to perform the work of an elevator mechanic without direct supervision.

(c) The department shall issue a temporary elevator mechanic's license to any person, certified by an elevator contractor, who applies for a license to the department on a form supplied by the department. The department may charge a fee for a temporary license issued under this subsection that is commensurate with the department's costs in administering this subsection (2).

(d) A temporary license issued under this subsection (2) is valid for a period of 30 days, and the department shall renew the license for additional 30-day periods as long as the shortage of licensed elevator mechanics exists and the licensee is employed by the certifying elevator contractor. However, the department may refuse to renew a temporary license for any temporary licensee that the department determines has had an adequate opportunity to obtain a license under the provisions of [sections ~~6 and 7~~ 5 AND 6].

NEW SECTION. Section 10. License renewal -- continuing education. ~~(1) An elevator mechanic's license, elevator inspector's license, and elevator contractor's license are valid for a 2-year period from the date of issuance or renewal. A licensee shall file for license renewal with the board on a form provided by the department and shall pay the requisite renewal fee.~~ (1) (A) ALL LICENSES ISSUED UNDER [SECTIONS 1 THROUGH 14] EXPIRE ON A DATE SET BY DEPARTMENT RULE.

(B) A LICENSEE MAY RENEW A LICENSE BY FILING AN APPLICATION WITH THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT AND BY PAYING A RENEWAL FEE IN AN AMOUNT ESTABLISHED BY THE DEPARTMENT BY RULE.

(2) The ~~board~~ DEPARTMENT shall establish by rule continuing education requirements for persons licensed as elevator mechanics or elevator inspectors. The ~~board~~ DEPARTMENT may not require less than 8 hours of continuing education for each license term. The continuing education requirement must be met by the licensee taking all of the required hours of continuing education in the year prior to the expiration of the license. The rules must include requirements for instructor certification, course content, and recordkeeping.

(3) The ~~board shall direct the department to~~ SHALL issue a renewal license to applicants who meet the requirements of this section.

NEW SECTION. Section 11. Reasonable fees -- deposit of fees and fines. (1) All fees established by the ~~board~~ DEPARTMENT under [sections ~~2 1~~ through ~~45 14~~] must be commensurate with the respective program costs. Fees collected by the department under [sections ~~2 1~~ through ~~45 14~~] must be deposited in an

1 account in the state special revenue fund for the use of the ~~board~~ PROGRAM.

2 (2) Fines collected under [sections ~~2 1~~ through ~~45 14~~] must be deposited in the state general fund.

3
4 **NEW SECTION. Section 12. Proof of license.** (1) An employee of a private or public employment
5 agency or labor union, a building code compliance inspector, an employee of the department, a person who is
6 professionally responsible for a job site, or a licensed elevator mechanic or licensed elevator inspector has the
7 right to ask a person doing work at a job site that requires an elevator mechanic's license to provide proof of
8 licensure. If the person performing the work is unable to furnish proof of licensure, the requesting person may
9 report that fact to ~~the board~~ or the department.

10 (2) An employee of the department may issue a citation to and collect a fine, as provided in [section ~~44~~
11 13], from a person at a job site where the person is performing elevator mechanic work if the person fails to
12 display an elevator mechanic's license or proof of licensure at the request of the department inspector.

13
14 **NEW SECTION. Section 13. Failure to display license.** (1) A citation issued by an employee of the
15 department for failure to display an elevator mechanic's license or proof of licensure must include:

- 16 (a) the time and date on which the citation is issued;
17 (b) the name, residential address, and signature of the person to whom the citation is issued;
18 (c) reference to the statutory authority to issue the citation;
19 (d) the name, title, affiliation, and signature of the person issuing the citation;
20 (e) information explaining the procedure for the person to follow in order to pay the fine or to
21 demonstrate proof of licensure; and
22 (f) the amount of the applicable fine.

23 (2) The applicable civil fines for failing to display a license or proof of licensure are as follows:

- 24 (a) \$100 for the first offense;
25 (b) \$250 for the second offense; and
26 (c) \$500 for the third and any subsequent offense.

27 (3) Each day of violation constitutes a separate offense. The person issuing the citation is responsible
28 for determining, by means of an up-to-date list or through telephone or other communication with the ~~board~~
29 DEPARTMENT office, whether the citation being issued is for a first, second, or subsequent offense.

30 (4) The person who issues the citation is authorized to collect the fine, but the person who is issued a

1 citation may pay the fine to the appropriate authority identified on the citation within 5 business days of the date
2 of issuance. The ~~board~~ DEPARTMENT may waive or refund the fine upon finding that the person has demonstrated
3 acceptable proof of licensure.

4 (5) A person who refuses to sign and accept a citation is subject to the civil penalty provided for in
5 37-1-318.

6
7 **NEW SECTION. Section 14. Penalty.** (1) Except as provided in subsection (4), a person or corporation
8 knowingly violating any provision of [sections 2 1 through ~~45~~ 14] shall upon conviction of a violation:

9 (a) if the violator is a person, be punished by a fine of not more than \$500, by imprisonment for a term
10 not to exceed 6 months, by revocation of the license, or by any combination of the fine, imprisonment, and
11 revocation, in the discretion of the court; and

12 (b) if the violator is a corporation, be punished by a fine of not more than \$1,000.

13 (2) Any officer or agent of a corporation or member or agent of a partnership or association who
14 personally and knowingly participates in or is an accessory to any violation of [sections 2 1 through ~~45~~ 14] by
15 the partnership, association, or corporation is subject to the penalties prescribed for individuals.

16 (3) A violation of [sections 2 1 through ~~45~~ 14] is a continuing violation, and the statute of limitations is
17 tolled until the violation ceases. The county attorney shall, upon request of the ~~board~~ DEPARTMENT, prosecute
18 any violation of the licensing requirements of [sections 2 1 through ~~45~~ 14].

19 (4) A person who violates the provisions of [section ~~44~~ 13] is not subject to an additional penalty under
20 this section.

21
22 **NEW SECTION. Section 15. Scope.** (1) [Sections ~~46~~ 15 through ~~23~~ 22] cover the design, construction,
23 alteration, operation, maintenance, repair, inspection, installation, and testing of the following equipment,
24 associated parts, and hoistways:

25 (a) hoisting and lowering mechanisms equipped with a car or platform, which move between two or
26 more landings, including but not limited to:

27 (i) elevators; and

28 (ii) platform lifts and stairway chair lifts;

29 (b) power driven stairways and walkways for carrying persons between landings, including but not
30 limited to:

- 1 (i) escalators; and
2 (ii) moving walks;
3 (c) hoisting and lowering mechanisms equipped with a car, which serves two or more landings and is
4 restricted to the carrying of material by its limited size or limited access to the car, including but not limited to:
5 (i) dumbwaiters; and
6 (ii) material lifts and dumbwaiters with automatic transfer devices; and
7 (d) automatic guided transit vehicles on guideways with an exclusive right-of-way including, but not
8 limited to, automated people movers.

9 (2) The department shall adopt rules designating equipment that is not subject to the provisions of
10 [sections ~~46~~ 15 through ~~23~~ 22], including but not limited to certain types of:

- 11 (a) personnel hoists;
12 (b) material hoists;
13 (c) manlifts;
14 (d) mobile scaffolds, towers, and platforms;
15 (e) powered platforms and equipment for exterior and interior maintenance;
16 (f) conveyors and related equipment;
17 (g) cranes, derricks, hoists, hooks, jacks and slings;
18 (h) industrial trucks;
19 (i) portable equipment, except for portable escalators that are covered by [sections ~~46~~ 15 through ~~23~~
20 22];
21 (j) tiering or piling machines used to move materials to and from storage that are located and operating
22 entirely within one story;
23 (k) equipment for feeding or positioning materials at machine tools, printing presses, and similar
24 locations;
25 (l) furnace hoists;
26 (m) railroad car lifts or dumpers; and
27 (n) moving platforms and similar equipment used by an elevator contractor for installing an elevator.
28 (3) [SECTIONS 15 THROUGH 22] DO NOT APPLY TO PRIVATE RESIDENCES OR FARM AND RANCH OPERATIONS.
29

30 NEW SECTION. **Section 16. Authority of department -- rulemaking.** (1) The department may

1 consult with engineering authorities and organizations concerned with safety codes, rules, and regulations
2 governing the design, construction, alteration, operation, maintenance, repair, inspection, installation, and testing
3 of elevators, dumbwaiters, escalators, and other equipment subject to the provisions of [sections ~~46 15~~ through
4 ~~23 22~~].

5 (2) (a) The department shall adopt rules relating to the design, construction, alteration, operation,
6 maintenance, repair, inspection, installation, and testing of elevators, dumbwaiters, escalators, and other
7 equipment subject to the provisions of [sections ~~46 15~~ through ~~23 22~~].

8 (b) The department may adopt by reference national standards for equipment subject to the provisions
9 of [sections ~~46 15~~ through ~~23 22~~], including national safety codes for elevators and escalators, safety standards
10 for platform lifts and stairway chairs, safety codes for existing elevators and escalators, and standards for
11 automated people movers.

12 (3) The department may modify or grant exceptions to any provision of [sections ~~46 15~~ through ~~23 22~~]
13 or any rule or standard adopted pursuant to [sections ~~46 15~~ through ~~23 22~~] if to do so would not jeopardize the
14 public safety or welfare.

15
16 **NEW SECTION. Section 17. Registration of elevators and other conveyances.** (1) Within 6 months
17 of [the effective date of this section], the owners or lessees of existing elevators, dumbwaiters, escalators, or
18 other equipment subject to the provisions of [sections ~~46 15~~ through ~~23 22~~] shall register the equipment with the
19 department on a form provided by the department unless the equipment was previously registered with the
20 department.

21 (2) The registration form must contain the type, load and speed, name of manufacturer, location, use,
22 and any other information the department may require for each elevator, dumbwaiter, escalator, or other
23 equipment subject to the provisions of [sections ~~46 15~~ through ~~23 22~~] that is registered pursuant to this section.

24 (3) Each elevator, dumbwaiter, escalator, or other equipment subject to the provisions of [sections ~~46~~
25 ~~15~~ through ~~23 22~~] whose construction is completed subsequent to the 6-month period referred to in subsection
26 (1) must be registered by the owner or lessee when the construction is complete.

27
28 **NEW SECTION. Section 18. Permits.** (1) (a) An elevator contractor may not erect, construct, install,
29 or alter an elevator, dumbwaiter, escalator, or other equipment subject to the provisions of [sections ~~46 15~~
30 through ~~23 22~~] unless the elevator contractor has obtained a permit from the department and paid the requisite

1 permit fees.

2 (b) Only a licensed elevator contractor may perform the work described in subsection (1)(a).

3 (2) Each permit application must be accompanied by copies of specifications and accurately scaled and
4 fully dimensioned plans that:

5 (a) show the location of the installation in relation to the plans and elevation of the building;

6 (b) show the location of the machinery room and the equipment to be installed, relocated, or altered;

7 (c) show all structural supporting members, including foundations;

8 (d) specify all materials to be employed and all loads to be supported or conveyed; and

9 (e) are sufficiently complete to illustrate all details of construction and design.

10 (3) The department may by rule establish criteria for revoking a permit, including but not limited to
11 materially false statements or misrepresentations made in conjunction with a permit application, an elevator
12 contractor's failure to perform in accordance with the specifications or plans submitted with the application or
13 with conditions of the permit, or the elevator contractor's failure to comply with a department stop-work order.

14 (4) A permit issued under this section expires:

15 (a) 6 months from the date of its issuance unless the permit specifies a shorter expiration period; or

16 (b) if an elevator contractor suspends or abandons work covered by a permit for 60 days unless the
17 permit specifies a shorter expiration period for suspension or abandonment.

18
19 **NEW SECTION. Section 19. Inspections -- fees -- exception.** (1) Except as provided in subsection
20 (2), all elevators, escalators, dumbwaiters, or other equipment subject to the provisions of [sections ~~46 15~~
21 through ~~23 22~~], including freight elevators, must be inspected by the department to ensure compliance with the
22 requirements of the applicable building code and [sections ~~46 15~~ through ~~23 22~~]. The department shall establish
23 and charge a reasonable fee based on the type of equipment being inspected that may not exceed the expense
24 of providing the inspection. Inspections must be made on an annual basis, EXCEPT THAT FREIGHT ELEVATOR
25 INSPECTIONS MUST BE CONDUCTED EVERY 2 YEARS.

26 (2) (a) In lieu of an inspection by the department, inspections of equipment provided for in subsection
27 (1) may be made by a licensed elevator inspector.

28 (b) When an inspection is made by an elevator inspector, a copy of the condition report must be
29 provided to the owner and a copy must be sent to the department. The department may not charge more than
30 \$10 for receiving and processing a condition report for each individual piece of equipment in a building and for

1 issuing a certificate of inspection for the piece of equipment if the licensed elevator inspector doing the
2 inspection certifies to the department that there are not any deficient conditions or that all deficient conditions
3 noted in the condition report have been corrected and that a followup inspection by the department is not
4 necessary.

5 ~~—— (3) This section does not apply to private residences or farm and ranch operations.~~

6 ~~(4)(3)~~ It is the responsibility of the owner or lessee of equipment subject to the provisions of this section
7 to ensure compliance with any inspection requirements.

8
9 **NEW SECTION. Section 20. Testing.** (1) The department shall establish by rule requirements for
10 periodic testing of elevators, escalators, dumbwaiters, and other equipment subject to the provisions of [sections
11 ~~46 15~~ through ~~23 22~~]. It is the responsibility of the owners or lessees of equipment subject to the provisions of
12 this section to ensure compliance with any testing requirements.

13 (2) An owner or lessee shall obtain the services of a licensed elevator contractor for testing and all tests
14 must be conducted by a licensed elevator mechanic.

15
16 **NEW SECTION. Section 21. Insurance requirements.** (1) Each licensed elevator contractor and
17 licensed elevator inspector shall provide the department with a certified copy of an insurance policy issued by
18 an insurance company authorized to do business in this state that provides at least \$1 million coverage for injury
19 or death for any number of persons in any single occurrence and \$500,000 for property damage in any single
20 occurrence.

21 (2) A licensed elevator contractor or licensed elevator inspector shall notify the department of any
22 material policy alteration or policy cancellation within 10 days of receiving notice of the alteration or cancellation.

23
24 **NEW SECTION. Section 22. Violation a misdemeanor -- injunction.** (1) Any person taking part or
25 assisting in the design, construction, alteration, operation, maintenance, repair, inspection, installation, or testing
26 of elevators, escalators, dumbwaiters, or other equipment subject to the provisions of [sections ~~46 15~~ through
27 ~~23 22~~] who knowingly violates any provision of [sections ~~46 15~~ through ~~23 22~~], the applicable building code, or
28 any lawful order of a state, county, or municipal building official is guilty of a misdemeanor.

29 (2) A violation described in subsection (1) may be enjoined by a district court judge in the judicial district
30 where the violation occurs.

(3) Subsection (2) is governed by the Montana Rules of Civil Procedure.

Section 23. Section 50-60-115, MCA, is amended to read:

"50-60-115. Building codes council -- purpose and structure. (1) There is a building codes council for the purpose of assisting the department with the application, implementation, and interpretation of the state building code and building codes adopted by counties, cities, or towns. The council shall work cooperatively with the department and with representatives of the construction industry, as well as members of the interested public, to harmonize building codes and related rules with both the needs of the construction industry and the public interest in efficiency, cost-effectiveness, and safety.

(2) The council consists of ~~44~~ 12 members appointed by the governor, unless otherwise specified, as follows:

- (a) a practicing architect licensed in Montana;
- (b) a practicing professional engineer licensed in Montana;
- (c) a representative from the building contractor industry;
- (d) a county, city, or town building inspector;
- (e) a representative of the manufactured housing industry;
- (f) a member of the general public who does not hold public office and who does not represent the same industry or agency as another council member;
- (g) the director of the department of health and human services or the director's designee;
- (h) a licensed electrician selected by the board of electricians;
- (i) a licensed plumber selected by the board of plumbers;
- (j) a licensed elevator mechanic selected by the ~~state elevator board~~ DEPARTMENT;
- ~~(j)~~(k) the state fire marshal or the fire marshal's designee; and
- ~~(k)~~(l) a representative of the home building industry.

(3) The appointed council members serve at the pleasure of the governor for terms of 3 years.

(4) The council is allocated to the department for administrative purposes only as provided in 2-15-121.

(5) The council and its members are entitled to compensation as provided in 2-15-122."

NEW SECTION. Section 24. Repealer. Sections 50-60-701, 50-60-702, and 50-60-703, MCA, are repealed.

~~NEW SECTION. Section 26. Initial board appointments.~~ The initial appointments governing individuals in the field of elevator mechanics, construction, and inspection established pursuant to [section 1] are as follows:

~~(1) four elevator mechanics who have been residents of this state for more than 1 year and who have been working in the field of elevator mechanics for at least 3 of the 5 years immediately preceding appointment;~~

~~(2) two elevator contractors who have been residents of this state for more than 1 year and who have been working as elevator contractors for at least 3 of the 5 years immediately preceding appointment; and~~

~~(3) one elevator inspector who has been a resident of this state for more than 1 year and who has been working as an elevator inspector for at least 3 of the 5 years immediately preceding appointment.~~

NEW SECTION. Section 25. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 17, and the provisions of Title 2, chapter 15, part 17, apply to [section 1].

(2)(1) [Sections 2 1 through 45 14] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 2 1 through 45 14].

(3)(2) [Sections 46 15 through 23 22] are intended to be codified as an integral part of Title 50, chapter 60, and the provisions of Title 50, chapter 60, apply to [sections 46 15 through 23 22].

NEW SECTION. Section 26. Effective dates. (1) Except as provided in subsection (2), [this act] is effective ~~on passage and approval~~ OCTOBER 1, 2005.

(2) [Section 24 23] is effective January 1, 2006.

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